

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

CASE NO. 5:20-CR-00389-M-2

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN POWELL,

Defendant.

ORDER

This matter comes before the court *sua sponte*. The court has learned that it made a clerical error in pronouncing the restitution amount owed by the Defendant at the sentencing hearing on June 1, 2023. *See* Tr. 19, DE 108. That is, while the court was correct in pronouncing that Defendant and his co-Defendant are jointly and severally liable for the proper amount of \$1,100.00, the court erroneously stated that Defendant “must make restitution ... in the amount of \$1,110.00.” *Id.* at 19: 1-12. The Judgment entered on June 6, 2023, aligns with this pronouncement and, thus, is incorrect. *See* J., DE 104.

Rule 36 of the Federal Rules of Criminal Procedure provides that “[a]fter giving any notice it considers appropriate, the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission.” *United States v. Vanderhorst*, 927 F.3d 824, 826 (4th Cir. 2019) (quoting Fed. R. Crim. P. 36). The rule “is limited to the correction of purely clerical errors and does not extend to judicial or substantive errors.” *United States v. Jenkins*, 22 F.4th 162, 167 (4th Cir. 2021). The court finds its error is purely clerical in nature and, therefore, it may be corrected under Rule 36.

Accordingly, absent any objection filed on or before August 15, 2023, the Clerk of the Court shall prepare and file an Amended Judgment listing \$1,100.00 as the correct amount of restitution owed by the Defendant in this case. The Clerk shall also ensure that counsel for the parties receive a copy of this order as soon as possible.

SO ORDERED this 24th day of July, 2023.

A handwritten signature in blue ink, reading "Richard E. Myers II", with a stylized flourish at the end.

RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE